

## **Public Notice Process Summary**

Below is a summary of the actions taken by the Michigan Department of Environmental Quality (MDEQ) during the development of the Watershed and Jurisdictional Municipal Separate Storm Sewer System (MS4) general permits to be responsive to the permittees and the general public before, during, and after the public notice period:

A meeting was held on October 1, 2007, at Constitution Hall to receive questions and make comments on the pre-public noticed Watershed and Jurisdictional General Permits. The meeting was open to permittees from all urbanized areas in Michigan.

Comments from this meeting and from a pre-public notice stakeholder group assembled by the Southeast Michigan Council of Governments (SEMCOG) were considered when developing the draft permits that were public noticed.

The Watershed Permit was public noticed on November 12, 2007, with an end date set for December 12, 2007.

The Jurisdictional Permit was public noticed on November 23, 2007, with an end date set for December 24, 2007.

As a result of public request during the public notice period, the public notice deadline was extended for both permits to January 31, 2008.

Written comments were received from approximately 100 sources during and after the public notice period. Attachment 1 is a list of those who provided written comments. In addition, numerous suggestions were received at meetings held with stakeholders.

SEMCOG formed an external stakeholders committee (Committee) to review the first drafts of the general permits. Committee members were chosen by SEMCOG, and included permittees from city, township, and county governments in Southeast Michigan; legal council for the Michigan Association of County Drain Commissioners; Dr. Jonathan Bulkley (University of Michigan, representing Federal Judge John Feikens); and Tim O'Brien representing private interests. At the request of the MDEQ, the Committee also included permittee representatives from the Saginaw area, Battle Creek, Grand Rapids, and other watersheds from southwest Michigan.

Committee meetings were held on December 21, 2007, and on January 18, February 29, March 5 (by phone), March 11 (by phone), and April 4, 2008. Additional meetings were held by phone and at Constitution Hall between SEMCOG and the MDEQ. The meetings and phone calls focused primarily on the draft Watershed Permit.

As comments were received at meetings and in writing, the MDEQ continued a dialogue with the Committee to assure understanding of the issues being raised. In response to these efforts, the MDEQ made numerous revisions to the drafts before proposing them for issuance. Attachments 2 and 3 are summaries of the changes made to the proposed Watershed and Jurisdictional permits, respectively, as a direct result of the comments received.

As a follow-up to these actions, and before the permits were issued by the Permits Section, a subgroup of the Committee met with the MDEQ Director and managers from the MDEQ, Water Bureau.

## ATTACHMENT 1: LIST OF COMMENTATORS

Name	Title	Representing
Mr. Gerald A. Bartoszek	Public Works Director	City of Norton Shores
Mr. Stephen R. May	President	Michigan Association of County Drain Commissioners
Ms. Judy Ruszkowski, P.E.	Storm Water Program Manager	Michigan Dept of Transportation
Mr. Ronald Kinney	Environmental Concerns Coordinator, Permits and Environmental Concerns Department	Oakland County Road Commission
Mr. Kevin R. Eisenbeis	Director, Office of Environmental Health and Safety	Michigan State University
Ms. Norma J. Wurmlinger	Mayor	City of Southgate
Mr. Mark A. Kowalewski	City Engineer	City of Wyandotte
Mr. Craig Lyon		Alliance of Downriver Watersheds; City of Taylor
Mr. John P. McCulloch	Drain Commissioner	Oakland County
Mr. James W. Ridgway, P.E.	Executive Director	Alliance of Rouge Communities
Mr. Kurt Heise	Director, Dept of Environment	Wayne County
Ms. Kristen O. Jurs	Storm Water Coordinator	St. Clair County
Mr. Robert J. Cannon	Township Supervisor	Clinton Charter Township
Ms. Mary W. Bednar, P.E., CFM	Township Engineer	Clinton Charter Township
Ms. Shawn Keenan	Water Resources Coordinator, Department of Public Services	City of Auburn Hills
Ms. Marcia Shinska	City Clerk	City of New Baltimore
Mr. David W. Flaten	City Administrator	City of Woodhaven
Mr. Brian Jonckheere	Livingston County Drain Commissioner	Huron Chain of Lakes and Upper-2 Shiawassee River Watershed Advisory Groups
Mr. Todd Sneathen, P.E.	Public Works Director	City of East Lansing
Mr. Eric C. Witter	Storm Water Coordinator	City of Port Huron
Mr. David Q. Worthams	Legislative Associate, State and Federal Affairs Department	Michigan Municipal League
Ms. Laura Rubin	Executive Director	Huron River Watershed Council
Mr. Wayne A. Harrall, P.E.	Director of Engineering	Kent County, Board of County Road Commissioners

## ATTACHMENT 1 CONTINUED

Name	Title	Representing
Mr. J. Richard Robinson		J. Richard Robinson, P.C., for Delhi Charter Township, Dewitt Charter Township, and the City of Grand Ledge
Mr. Anthony V. Marrocco	Public Works Commissioner	Macomb County
Mr. Jeffrey H. Bednar, P.E., CFM		Anderson, Eckstein and Westrick, Incorporated
Mr. James G. Scharret	City Administrator	City of Southfield
Mr. Dennis A. Dembiec	Director of Engineering and Public Services	City of Birmingham
Mr. William H. Craig	Chair	Rouge River Remedial Action Plan Advisory Council
Ms. S. Judith Dudzinski	City Clerk	City of Dearborn Heights
Mr. Daniel S. Paletko	Mayor	City of Dearborn Heights
Ms. Kathryn A. Dornan	City Clerk	City of Farmington Hills
Mr. James D. Anulewicz	Public Services Director	Plymouth Charter Township
Mr. Daniel G. Guzzi	Mayor	City of Rockwood
Mr. Mark Gahry	Public Works Director	Brownstown Charter Township
Mr. William R. Kaiser	Wastewater Superintendent	City of Bay City
Ms. Dennise Clippert	City Clerk	City of Sylvan Lake
Mr. Jim Beaubien	Mayor	City of Gibraltar
Ms. Mary E. Carney	City Clerk	City of Wayne
Mr. Stephen A. Truman	City Manager	City of Roseville
Ms. Gloria Harris-Ford	City Clerk	City of Lathrup Village
Mr. James R. Letts	Public Works Director	City of Linden
Ms. Nancy L. Bourgeois	City Manager/Clerk	City of Center Line
Ms. Judith A. Bratcher	City Clerk	City of Riverview
Ms. Karen L. Bond	Township Supervisor	Mundy Charter Township
Ms. Cindy C. King	Township Supervisor	Van Buren Charter Township
Mr. Daniel E. Swallow	Director, Department of Planning and Economic Development	Van Buren Charter Township
Mr. Jeffrey Wright	Drain Commissioner	Genesee County

## ATTACHMENT 1 CONTINUED

Name	Title	Representing
Ms. Ruth Franzoni	City Clerk	City of Huntington Woods
Mr. Kurt Soper	Township Supervisor	Davison Township
Mr. Rod Shumaker	Township Supervisor	Clayton Charter Township
Mr. Allen LaFurgey		City of Mount Morris
Mr. Anthony McKerchie	Township Supervisor	Vienna Charter Township
Mr. Scott Streeter	Township Supervisor	Genesee Charter Township
Mr. Wayne D. Wiley	City Manager	City of Battle Creek
Ms. Arlene M. Nichols	Village Clerk	Village of Lake Orion
Mr. Chuck Hersey	Manager, Environmental Programs	Southeast Michigan Council of Governments
Mr. Bruce Merchant	Managing Director, Public Services Department	Environmental Services Division, City of Kalamazoo
Mr. Bryan K. Barnett	Mayor	City of Rochester Hills
Ms. Meghan Bonfiglio	Environmental Services Manager, Engineering and Environmental Services Department	Bloomfield Township
Mr. Bruce Hammond	Department of Public Services Director	City of Flat Rock
Ms. Kathryn Hagaman	Clerk	Village of Bingham Farms
Ms. Connie Bowles	Clerk	Chesterfield Charter Township
Mr. D. Wayne O'Neal	Clerk	City of Eastpointe
Mr. Tom Van Damme	Clerk	City of Fraser
Ms. Julie Arthurs	Clerk	City of Grosse Pointe
Ms. Kimberly Turner	Clerk	City of Inkster
Mr. Randall Moore	Clerk	City of Keego Harbor
Ms. Lynne Kennedy	Clerk	City of Mount Clemens

## ATTACHMENT 1 CONTINUED

Name	Title	Representing
Ms. Janice Winn	Clerk	City of St. Clair
Ms. Mary Kotowski	Clerk	City of St. Clair Shores
Mr. Ralph Maccarone	Supervisor	Shelby Charter Township
Mr. Richard P. Sulaka	Clerk	City of Warren
Mr. Gary Kirsch	Supervisor	Washington Township
Mr. Noel Mullett		Wayne County
Ms. Janis A. Bobrin	Drain Commissioner	Washtenaw County
Mr. John D. Niemela	Director	County Road Association of Michigan
Mr. Richard L. Reed	Supervisor	Berlin Charter Township
Ms. Lani S. Rozga	Executive Director, Business Services	Woodhaven-Brownstown School District
Mr. John Mitchell	Supervisor	Huron Charter Township
Mr. Art Wright		Downriver Community Conference
Ms. Lorinda S. Beneteau	Administrative Manager, Department of Public Services	Grosse Ile Township
Mr. Rick Lang	Director, Public Services/Engineering	City of Allen Park
Ms. Donna Breeding	Clerk	City of Lincoln Park

## Attachment 2: Post-Public Notice Changes in the Watershed Permit

This attachment provides an abbreviated summary of the changes made in the Watershed Permit in response to the discussions and comments received during and following the public comment period. The changes listed here were made in a good faith effort to resolve the issues brought forth in writing and in discussions with the external committee.

The changes made in the Watershed Permit as a result of comments from outside the Department of Environmental Quality (DEQ) include:

1. Clarification that the Total Maximum Daily Loads (TMDLs) will only be those applicable to storm water discharges
2. For Discharge Point Requirements:
  - a. Eliminated the latitude/longitude requirement for existing discharge points.
  - b. Eliminated the requirement to submit the storm water control structures and municipal properties with the outfall map.
  - c. Divided discharge point requirements between known existing discharge points, future known existing discharge points, and newly-constructed discharge points.
  - d. Allowed authorization of discharge points by category.
  - e. Permittees may get a schedule to report locations of discharge points within categories. Up to two permit cycles are allowed for location reporting if permittees have over 1,500 discharge points.
  - f. Eliminated the requirement for discharge point labeling.
3. For the Public Participation Plan (PPP) and Watershed Management Plan (WMP) Requirements:
  - a. Allowed submittals by group or individual, where appropriate (i.e., PPP).
  - b. Defined the purpose of the WMP.
  - c. Clarified the linkage between the WMP and the Storm Water Pollution Prevention Initiative (SWPPI).
  - d. Incorporated suggestions on the WMP components, including impaired uses, waterways included on the 303(d) list, land use management tools, clarifying Water Quality Standard requirements, clarifying where costs need to be included, allowance for evaluation of effectiveness on a watershed-wide basis, and shortened the list of triggers for WMP revisions.
  - e. Specified the Jurisdictional Permit as the alternate general permit if the joint requirements are not completed.
  - f. Eliminated a WMP requirement to identify new Municipal Separate Storm Sewer Systems (MS4s) in watersheds not identified on the Certificate of Coverage (COC).

4. For SWPPI Submission:
  - a. Included the suggestion that the permittee is encouraged to collaborate with the DEQ before SWPPI submittal on major SWPPI components and alternative approaches.
  - b. Simplified the requirements needed for automatic approval of a SWPPI.
  - c. Expanded allowances for alternative approaches to standard permit requirements.
  - d. Clarified when SWPPI actions are restricted to areas where the permittee owns and operates MS4s, and when they are jurisdiction-wide.
  - e. Clarified that notice from the DEQ and an opportunity for a hearing must precede a permit modification.
5. For TMDLs:
  - a. TMDL activities shall make progress toward meeting Water Quality Standards.
  - b. Included the suggested alternative option for monitoring collaboratively with watershed partners, and called it an option rather an alternative.
  - c. Included factors for design of a collaborative monitoring program.
6. For the Public Education Plan (PEP):
  - a. Provided an option for a collaborative PEP and PEP evaluation with watershed or regional partners.
  - b. Will use PEP guidance for reference only, not as effluent requirements.
  - c. Eliminated the requirement to inform the public of the location of catch basins that serve them.
  - d. Identified applicable audiences for education on riparian and septic system issues.
  - e. Eliminated the specific requirement for commercial food services.
7. For the Illicit Discharge Elimination Program (IDEP):
  - a. Incorporated rule language to detect and eliminate illicit connections and discharges, and to effectively prohibit rather than effectively eliminate.
  - b. Changed the definition of illicit discharge to reflect the rule definition. Specifically, this addresses domestic animal wastes versus animal wastes.
  - c. Clarified what the IDEP shall include rather than what alternatives are not allowed.
  - d. Included the mapping requirement from the rule, but allowed flexibility of the map format/type. System maps do not have to be submitted.
  - e. Eliminated the mandatory screening parameters where pollutant analysis is not needed to identify its source.
  - f. Specifically allowed alternative approaches for methods to identify sources of identified pollutants.
  - g. Provided an elective option that bypasses dry-weather screening of internal discharge points as long as screening results are clean at the outfall.
  - h. Modified training of staff employed by the permittee, and allowed the schedule for this activity to extend over the permit period.

- i. Training for illicit discharges and connections no longer specifically identifies training for sanitary seepage.
  - j. Eliminated the requirement for procedures to respond to spills and emergencies.
- 8. For Post Construction:
  - a. Clarified the application of this as per the rule.
  - b. Eliminated the reference to TMDLs.
  - c. Eliminated the restrictions on post-construction alternative approaches.
  - d. Allowed existing local regulatory mechanisms to continue, if identified in the application.
  - e. Allowed recognition of existing local procedures, if identified in the application, and a time period is specified to convert these to an ordinance or other regulatory mechanism.
  - f. Provided an elective option with flexible criteria for water quality and channel protection. This option is subject to the DEQ's approval and modification of the Certificate of Coverage.
  - g. Allowed the amendment of the existing regulatory mechanism or procedure without submittal, as long as the amendment does not reduce the current level of control.
  - h. Clarified the extent to which an existing regulatory mechanism or procedure may replace permit requirements.
  - i. Allowed a minimum treatment volume of ½ inch of runoff if support for it is demonstrated in the WMP.
  - j. Changed treatment methods to allow design to either 80 percent removal or 80 mg/l.
  - k. Encouraged continued use of more restrictive post-construction standards where they already exist.
- 9. For Construction Storm Water Runoff:
  - a. Aligned the requirements to specifically follow the rule requirements.
  - b. Identified conditions under which notification would go to either the local soil erosion agent or the DEQ.
- 10. For Pollution Prevention and Good Housekeeping for Municipal Operations:
  - a. Clarified that municipal operations need controls only if they discharge to surface waters.
  - b. Specified that employee training is needed only for storm water management activities.
  - c. Employee training: changed to say "ensure" training rather than "provide."
  - d. Allowed contractor training to be in the form of standards for bid specifications, and combined all requirements for contractors.
  - e. Changed so that the permittee shall "identify" rather than "establish" Best Management Practices (BMP) inspection frequencies in the SWPPI. Greater flexibility was given for picking inspection frequencies.
  - f. Deleted the submittal requirement for a list of municipal properties and structural controls in the second progress report. Instead, the permittee shall give a summary estimate of properties and structural controls in the



SWPPI, and make a full list by the first annual report, to be kept, not submitted.

- g. "Municipal Properties" are defined.
- h. Guidance for catch basin waste disposal is referenced in the permit.
- i. Structural controls: changed so that only new structures are required to follow the treatment volume and channel protection criteria.
- j. Upgrading or rehabilitating structural controls for water quality treatment or channel protection remains optional and is now more flexible. Dams were deleted as a type of structural control.
- k. Clarified that Roadway, Parking Lot, and Bridge requirements apply to impervious surfaces only.
- l. The 25 percent Total Suspended Solids (TSS) reduction goal was replaced by reduction to the Maximum Extent Practicable (MEP), with the effectiveness evaluation of current programs and a requirement to identify methods to improve TSS controls by 2013.
- m. The first annual report does not need to identify the controls needed to achieve 25 percent TSS removal.
- n. Maintenance of salt and sand storage shall "prevent" salt and sand discharges rather than "eliminate" them.
- o. Allowed the Storm Water Pollution Prevention Plan (SWPPP) and certified operator requirements to be included in the SWPPI as an option.
- p. Allowed the storm water program manager to act in place of a certified operator to develop and sign the SWPPPs.
- q. Storage yards are defined, and they include areas where vehicles are stored, not just parked.
- r. Fertilizer, pesticide, and herbicide controls are only required for the permittee's vegetated properties.

Miscellaneous and Reporting:

- 11. Program Assessment may identify methods to determine the "effectiveness" of actions rather than program progress. Effectiveness may be evaluated at the watershed level.
- 12. Permittees with shortened permit cycles (new permittees entering the program) may get more than one permit term to implement all actions.
- 13. Changed watershed-wide TMDL activities in the progress report to include activities that make progress towards meeting the Water Quality Standards (WQS), and emphasized 303(d) waters along with TMDLs.
- 14. Clarified that data and actions related to TMDLs are limited to the permittee's area of permit coverage.
- 15. Eliminated the requirement for a summary report of MS4 discharge points.
- 16. The progress reports become one option for reporting new discharge point information.
- 17. Notice of problem discharges to or from the MS4 will not target regulatory programs such as the National Pollutant Discharge Elimination System Permits or Groundwater Permits.
- 18. Eliminated the reporting of illicit discharges under Non-Compliance Notification.
- 19. Defined "Regulated Area" to clarify where actions were to be implemented.

## **Attachment 3**

### **Post-Public Notice Changes in the Jurisdictional Permit**

This attachment provides an abbreviated summary of the changes made in the Jurisdictional Permit in response to the discussions and comments received during and following the public comment period. The changes listed here were made in a good faith effort to resolve the issues brought forth from the written and verbal comments received. The vast majority of comments were received on the Watershed Permit. Most of the changes made to the Jurisdictional Permit are the result of comments on the Watershed Permit, and are based on the best professional judgment of the permit writer as to which changes made in the Watershed Permit were also appropriate for the Jurisdictional Permit.

The changes made in the Jurisdictional Permit as a result of comments from outside the Department of Environmental Quality (DEQ) include:

1. Clarification that the Total Maximum Daily Loads (TMDLs) will only be those applicable to storm water discharges
2. For Discharge Point Requirements:
  - a. Eliminated the latitude/longitude requirement for existing discharge points identified in the application.
  - b. Eliminated the requirement to submit the storm water control structures and municipal properties with the outfall map.
  - c. Divided discharge point requirements between known existing discharge points and discharge points found or built after applying for the permit.
  - d. Allowed authorization of discharge points by category.
  - e. Permittees may get a schedule to report locations of discharge points within categories. Up to two permit cycles are allowed for location reporting if permittees have over 1,500 discharge points.
3. For the Storm Water Management Plan (SWMP) General Requirements:
  - a. Deleted the requirement that controls be water quality-based where there is no TMDL.
  - b. Included the suggestion that the permittee is encouraged to collaborate with the DEQ before SWMP submittal on major SWMP components.
  - c. Simplified the requirements needed for automatic approval of a SWMP.
  - d. Clarified that there must be a notice from the DEQ and the opportunity for a hearing before the DEQ can proceed with a permit modification.
4. For TMDLs:
  - a. TMDL activities shall make progress toward meeting Water Quality Standards.
5. For the Public Education Plan (PEP):
  - a. Will use PEP guidance for reference only, not as effluent requirements.
  - b. Identified applicable audiences for education on riparian and septic system issues.

6. For the Illicit Discharge Elimination Program (IDEP):
  - a. Incorporated rule language to detect and eliminate illicit connections and discharges, and to effectively prohibit rather than effectively eliminate.
  - b. Changed the definition of illicit discharge to reflect the rule definition. Specifically, this addresses domestic animal wastes versus animal wastes.
  - c. Included the mapping requirement from the rule, but allowed flexibility of map format/type. System maps do not have to be submitted.
  - d. Eliminated the mandatory screening parameters where pollutant analysis is not needed to identify its source.
7. For Post Construction:
  - a. Clarified the application of this as per the rule.
  - b. Eliminated the reference to TMDLs.
  - c. Allowed existing local regulatory mechanisms to continue, if identified in the application.
  - d. Allowed recognition of existing local procedures, if identified in the application, and a time period is specified to convert these to an ordinance or other regulatory mechanism.
  - e. Allowed modification of existing ordinances or other regulatory mechanisms without prior approval as long as the modification does not reduce the level of control.
  - f. Clarified the extent to which an existing regulatory mechanism or procedure may replace permit requirements.
  - g. Changed treatment methods to allow design to either 80 percent removal or 80 mg/l.
  - h. Encouraged continued use of more restrictive post-construction standards where they already exist.
8. For Construction Storm Water Runoff:
  - a. Aligned the requirements to specifically follow the rule requirements.
  - b. Identified conditions under which notification would go to either the local soil erosion agent or the DEQ.
9. For Pollution Prevention and Good Housekeeping for Municipal Operations:
  - a. Clarified that municipal operations need controls only if they discharge to surface waters.
  - b. Employee training: replaced “provide training” with “ensure there is training.”
  - c. Allowed contractor training to be in the form of standards for bid specifications, and combined all requirements for contractors.
  - d. Deleted the reference to inspection frequencies available from the DEQ.
  - e. Deleted the submittal requirement for a list of municipal properties and structural controls in the second progress report. Instead, the permittee shall give a summary estimate of properties and structural controls in the SWMP, and make a full list by the first annual report, to be kept, not submitted.
  - f. “Municipal Properties” are defined.

- g. Guidance for catch basin waste disposal is referenced in the permit.
- h. Structural controls: changed so that only new structures are required to follow the treatment volume and channel protection criteria.
- i. Upgrading or rehabilitating structural controls for water quality treatment or channel protection remains optional and is now more flexible. Dams were deleted as a type of structural control.
- j. Changed the 25 percent Total Suspended Solids (TSS) loading to a goal, and will be considered to be part of the effectiveness evaluation.
- k. The first annual report does not need to identify the controls needed to achieve 25 percent TSS removal.
- l. Maintenance of salt and sand storage shall “prevent” salt and sand discharges rather than “eliminate” them.
- m. Allowed the storm water program manager to act in place of a certified operator to sign Storm Water Pollution Prevention Plans (SWPPPs).
- n. “Storage Yards” are defined, and they include areas where vehicles are stored, not just parked.
- o. Fertilizer, pesticide, and herbicide controls are required only for the permittee’s vegetated properties.

Miscellaneous and Reporting:

- 10. Eliminated the requirement for a summary report of the Municipal Separate Storm Sewer System (MS4) discharge points.
- 11. Notice of problem discharges to or from the MS4 will not target regulatory programs such as the National Pollutant Discharge Elimination System Permits or Groundwater Permits.